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Discharge Procedure in the House

Updated December 5, 2005

Congressional Research Service

<https://crsreports.congress.gov>

98-394

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The House “discharge rule” (Rule XV, clause 2) provides a means for Members to bring to the floor for consideration a bill or resolution that has been referred to committee but not reported. Discharge is generally the only procedure by which Members can secure consideration of a measure without cooperation from the committee of referral, the majority-party leadership, or the Committee on Rules. For this reason, discharge is designed to be difficult to accomplish and has infrequently been used with success. See <http://www.crs.gov/products/guides/guidehome.shtml> for more information on legislative process.

Basic Discharge Procedure

Discharge may be attempted only on a measure that has been referred to committee for at least 30 legislative days (usually equal to days in session). A Member initiates a discharge attempt by submitting a discharge petition to the Clerk of the House (who provides forms for this purpose). The Clerk then makes the petition available at the rostrum during sessions of the House for Members to sign, and publishes the names of signers, weekly in the last House edition of the *Congressional Record*, and cumulatively on the Clerk’s website at <http://clerkweb.house.gov>.

Members may add or remove their names until the petition has 218 signatures, when the list is frozen and printed in the *Record*. The discharge motion may then be offered on the floor, but only on a second or fourth Monday that falls at least seven legislative days after the petition is filled. (The day is sometimes altered by unanimous consent.) The motion may not be offered during the last six days of a session. If, before the motion is offered, the committee reports the measure (with or without amendment), the discharge process becomes moot, and the measure can be considered only under other procedures.

The motion to discharge must be offered by a Member who signed the petition, usually its initiator. Typically, this Member makes essential motions and controls debate time in favor of the measure, and the chair of the pertinent committee controls time in opposition. From this point on, all questions are decided by an ordinary majority of Members voting. The motion to discharge is debatable for 20 minutes equally divided; if it is adopted, it is in order to move that the House consider the measure. No committee amendments having been reported, the measure will be considered in the form introduced.

Consideration After Discharge

If the measure in question is a “money measure” (including authorization, appropriation, and revenue measures), the motion in order is that the House resolve into Committee of the Whole to consider it. If this motion is adopted, the measure is considered as if under an open rule: when each section is read for amendment, germane amendments to it are in order and are debated under the five-minute rule. Time for general debate may be placed under the control of managers by unanimous consent. If the measure is not a “money measure,” the motion in order is that the House consider it. If the motion is adopted, the measure is considered under the one-hour rule in the House, not in Committee of the Whole. The Member calling up the measure controls one hour for debate, and then may move the previous question. If the previous question is ordered, the House will be unable to consider any amendments.

Discharge and Special Rules

Alternatively, Members may petition for discharge not on the unreported measure itself, but on a rule for considering it. Supporters must first draft and submit a rule (1) providing that the measure be considered although unreported, (2) setting terms for its debate and amendment, normally in Committee of the Whole, and (3) stipulating that consideration continue until final disposition.

Under Rule XV, clause 2, this rule may not permit non-germane amendments, or provide for consideration of more than one measure. After seven legislative days, if the rule has not been reported, supporters may file a petition to discharge the Committee on Rules from considering it.

If this process is successful, and the House adopts the motion to discharge, it automatically proceeds to consider the rule in the usual way, under the one-hour rule. If the rule is adopted, the House proceeds to execute its terms by considering the measure it makes in order. This procedure permits supporters of the underlying measure to prescribe appropriate terms to regulate its consideration.

Under this procedure, if the *measure* is reported, the rule, and the discharge attempt, remain valid. If the Committee on Rules reports the *rule*, the discharge petition becomes moot, but in that case, after seven legislative days any member of the Committee on Rules may still call up the rule. If the committee reports the rule adversely, any Member may call it up on a discharge day (Rule XIII, clause 6(e); Rule XV, clause 3).

In practice, when a discharge petition receives the required 218 signatures, the Committee on Rules often reports its own rule for considering the measure (or an alternative), and also laying the discharge motion on the table. The committee normally calls up this rule before the discharge motion can be offered on the floor. If the House adopts the rule, it can consider the measure, but under the terms proposed by the Committee on Rules, not those prescribed by the discharge process. If supporters of the measure are dissatisfied with the terms of the committee's rule, they may attempt to defeat it, and thereby retain the capacity to offer the discharge motion on the next discharge day.

Discharge of Rule for Reported Measure

If a committee reports a measure, and the Committee on Rules declines to grant a rule for considering it, Members may submit their own rule, and then may attempt to discharge the Committee on Rules from considering that rule. In this case, the object of discharge is not the committee holding the underlying measure, but the Committee on Rules. Since 1967, only four measures subjected to such efforts reached the House floor.

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